IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 19686 of 2004

Between:

E. Malla Reddy S/o Late E. Krishna Reddy,
R/o H. No. 7-2-104/19, Tirumala colony, L.B. Nagar, Hyderabad, Ranga

Reddy District

..... PETITIONER

AND

1 The Joint Collector, Ranga Reddy District at Hyderabad
2 The Mandal Revenue Officer, Saroornagar Mandal, Ranga Reddy District
3 P. Narendranath Reddy S/o Late P. Narayana Reddy, R/o H. No. 12-13-785, Taranaka, Secunderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Certiorary calling for the records relating to and pertaining to the order dt 05-10-2004 passed in File No.F2/4481/2004 by the Respondent No.1 i.e. the Joint Collector, RR. District herein from the office of the Respondent No. 1 herein and to issue a Writ or Certiorary and to Quash the same by declaring the same as arbitrary and contrary to the principles of natural justice and equity.

Counsel for the Petitioner:Mr.A.PULLA REDDY & ABHISHEK REDDY

Counsel for the Respondents 1 and 2: GP FOR REVENUE

Counsel for the Respondents No.3: Ms.K.Bindu

The Court, at the stage of admission, made the following :

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ORDER:

The petitioner filed an application, under Section 32 of the Andhra Pradesh (Telangana Area) Tenancy & Agricultural Lands Act, before the 2nd respondent, seeking restoration of land in Sy.No.29/2 ad-measuring Ac.2-29 guntas, situated at Bairamalguda village, Saroornagar Mandal, Ranga Reddy District. The said application was allowed. Aggrieved by the same, the 3rd respondent preferred an appeal before the 1st respondent-Joint Collector. The 1st respondent by the impugned order, dated 5-10-2004, suspended the order of the 2nd respondent, dated 6-11-2003, i.e., after a period of 11 months. The case of the petitioner is that pursuant to the order of the 2nd respondent, possession was delivered under a panchanama dated 17-11-2003 and since then he is in possession and enjoyment of the said land. Hence, the impugned order, which was passed without ascertaining the developments, which have taken place subsequently, is of no consequence and the same is liable to be set aside.

The 3rd respondent filed a counter affidavit stating that there is no open land left in Sy.No.29/2, and out of the entire land, the land, which fell to his share is covered by a marriage function hall and the land, which fell to the share of the three others is covered with residential buildings.

Learned counsel for the petitioner submitted that since the notice issued by the 1st respondent, dated 09-09-2004, stating that the application for condonation of delay in the appeal preferred by the 3rd respondent would be taken on 14-09-2004, was served on the petitioner on 21-09-2004 i.e. after expiry of the date of hearing, he could not appear before the 1st respondent on the said date. Ultimately, on 11-10-2004, the petitioner received the order dated 5-10-2004, wherein the 1st respondent suspended the order dated 6-11-2003, passed by the 2nd respondent, and hence, the petitioner prays for setting aside said order, which was passed behind his back

and without affording any opportunity to him.

Inasmuch as the impugned order is passed in *ex parte* and without giving any opportunity to the petitioner, the same cannot be sustained. Hence, the impugned order is set aside and remitted to the 1st respondent for fresh consideration. The 1st respondent is directed to pass appropriate orders in accordance with law, after affording due opportunity to the petitioner.

Accordingly, the writ petition is allowed. No order as to costs.

09-11-2004

GJ

To

1 The Joint Collector, Ranga Reddy District at Hyderabad
2 The Mandal Revenue Officer, Sarooranagar Mandal, Ranga Reddy District
3 2 CCs to the G.P. for Revenue, High Court of A.P., Hyderabad (OUT).

4 2 CD copies.